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Paper No. 36

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APR 28 2004

OFFICE OF PETITIONS

In re Application of :
Norman Bryson Roberts et al :
Application No. 09/508,923 :
Filed: June 19, 2000 :
Attorney Docket No. PM266300 :
DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

It does not appear, absent benefit of the file record at this time, that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Paul L. Sharer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. Since it cannot be determined whether Mr. Sharer has

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

ever been appointed as an attorney of record, the change of address filed concurrently with the petition will not be entered at this time. However, if, in fact, Mr. Sharer was never appointed as an attorney of record and Mr. Sharer desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Sharer, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition was accompanied by a request to change the address of record. However, it appears that the change of address was not signed by an attorney of record. Therefore, the change of address will not be entered. Upon receipt of the application file in the Office of Petitions, the file record will be examined to make a determination as to whether Mr. Paul L. Sharer was ever appointed as an attorney in this application. If so, then the change of address will be entered. A courtesy copy of this decision is being mailed to the petitioner herein. If petitioner is not in fact an attorney of record and it is desired to receive future communications regarding this file, then the appropriate power of attorney documentation should be submitted.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

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